

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER** Page 1 of 3  
**DOCKET NO.:** 2007-0893-MWD-E **TCEQ ID:** RN102916178 **CASE NO.:** 33706  
**RESPONDENT NAME:** Trinity @ Windfern LLC

|  |   |  |
|--|---|--|
| <b>ORDER TYPE:</b>   |   |  |
| <input checked="" type="checkbox"/> 1660 AGREED ORDER  | <input type="checkbox"/> FINDINGS AGREED ORDER              | <input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING       |
| <input type="checkbox"/> FINDINGS DEFAULT ORDER  | <input type="checkbox"/> SHUTDOWN ORDER                     | <input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER |
| <input type="checkbox"/> AMENDED ORDER   | <input type="checkbox"/> EMERGENCY ORDER                    |  |
| <b>CASE TYPE:</b>  |   |  |
| <input type="checkbox"/> AIR   | <input type="checkbox"/> MULTI-MEDIA (check all that apply) | <input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE              |
| <input type="checkbox"/> PUBLIC WATER SUPPLY   | <input type="checkbox"/> PETROLEUM STORAGE TANKS            | <input type="checkbox"/> OCCUPATIONAL CERTIFICATION                  |
| <input checked="" type="checkbox"/> WATER QUALITY  | <input type="checkbox"/> SEWAGE SLUDGE                      | <input type="checkbox"/> UNDERGROUND INJECTION CONTROL               |
| <input type="checkbox"/> MUNICIPAL SOLID WASTE   | <input type="checkbox"/> RADIOACTIVE WASTE                  | <input type="checkbox"/> DRY CLEANER REGISTRATION                    |
| <p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Windfern MHP, 9401 Windfern Road, approximately 300 feet south of Zaka Road and approximately 3 miles north of the intersection of Windfern Road and U.S. Highway 290, Harris County</p> <p><b>TYPE OF OPERATION:</b> Wastewater treatment plant</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on November 12, 2007. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b><br/> <b>TCEQ Attorney/SEP Coordinator:</b> None<br/> <b>TCEQ Enforcement Coordinator:</b> Mr. J. Craig Fleming, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-5806; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171<br/> <b>Respondent:</b> Mr. Don Clements, Majority Partnership Owner, Trinity @ Windfern LLC, 5909 Woodway Place Court, Houston, Texas 77057<br/> <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p> |   |  |

**VIOLATION SUMMARY CHART:**

| VIOLATION INFORMATION   | PENALTY CONSIDERATIONS  | CORRECTIVE ACTIONS TAKEN/REQUIRED  |
|---|---|--|
| <p><b>Type of Investigation:</b><br/> <input type="checkbox"/> Complaint<br/> <input checked="" type="checkbox"/> Routine<br/> <input type="checkbox"/> Enforcement Follow-up<br/> <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> March 27, 2007</p> <p><b>Date of NOV/NOE Relating to this Case:</b> May 21, 2007 (NOB)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>WATER</b></p> <p>1) Failed to collect effluent samples at the frequency specified in the permit. Specifically, a review of records at the time of the investigation revealed 7 weekly sampling events in the months of March, April, May, and June, 2006 were not taken [30 TEX. ADMIN. CODE § 319.5(b), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013509001, Effluent Limitations and Monitoring Requirements No. 1].</p> <p>2) Failed to make available all discharge monitoring records for review. Specifically, the following records were not available for review at the investigation: discharge monitoring reports ("DMRs") for 2005, laboratory reports for 2005, annual sludge reports for 2005-2006, and the 2006 toxicity characteristic leaching procedure ("TCLP") test results [30 TEX. ADMIN. CODE § 319.7(c)].</p> <p>3) Failed to operate and maintain the Facility to prevent the discharge and accumulations of sludge in the receiving stream. Specifically, sludge was noted in the roadside outfall ditch for approximately 200 feet downstream of the outfall. Samples taken from the outfall ditch contained a carbonaceous biochemical oxygen demand concentration of 159 milligrams per liter ("mg/L"), a total suspended solids concentration of 7,120</p> | <p><b>Total Assessed:</b> \$12,390</p> <p><b>Total Deferred:</b> \$2,478<br/> <input checked="" type="checkbox"/> Expedited Settlement<br/> <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid (Due) to General Revenue:</b> \$6,372 (remaining \$3,540 due in 1 monthly payment)</p> <p><b>Site Compliance History Classification</b><br/> <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b><br/> <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p> | <p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <p>a. The sludge in the chlorine basin was removed by pumping on April 5, 2007;</p> <p>b. The Respondent flushed the lift pump and backwashed the solids back into the clarifier by April 12, 2007; and</p> <p>c. The Respondent submitted the missing records for the year 2005 including but not limited to DMRs, laboratory reports, annual sludge reports for 2005-2006, and the 2006 TCLP test results.</p> <p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order:</p> <p>i. Implement a procedure whereby the effluent samples are being collected at the required frequency; and</p> <p>ii. Implement a procedure whereby the appropriate records are appropriately maintained.</p> <p>b. Within 45 days after the effective date of this Agreed Order:</p> <p>i. Submit documentation of the corrective actions taken to clean the receiving ditch; and</p> <p>ii. Submit documentation on procedures taken to prevent the recurrence of any discharges of solids to the receiving ditch.</p> <p>c. Within 60 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions a. and b.</p> |

|  |  |  |
|--|--|--|
| mg/L, a volatile suspended solids concentration of 3,030 mg/L, and an ammonia-nitrogen concentration of 4.8 mg/L [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), (4), and (5), and TPDES Permit No. WQ0013509001, Permit Conditions 2.d.]. |  |  |
|--|--|--|

Additional ID No(s): WQ0013509001





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision May 25, 2007

TCEQ

|              |                 |             |                  |            |                |  |
|--------------|-----------------|-------------|------------------|------------|----------------|--|
| <b>DATES</b> | <b>Assigned</b> | 29-May-2007 | <b>Screening</b> | 6-Jun-2007 | <b>EPA Due</b> |  |
|              | <b>PCW</b>      | 13-Feb-2008 |                  |            |                |  |

## RESPONDENT/FACILITY INFORMATION

|                             |                        |                           |       |
|-----------------------------|------------------------|---------------------------|-------|
| <b>Respondent</b>           | Trinity @ Windfern LLC |                           |       |
| <b>Reg. Ent. Ref. No.</b>   | RN102916178            |                           |       |
| <b>Facility/Site Region</b> | 12-Houston             | <b>Major/Minor Source</b> | Minor |

## CASE INFORMATION

|  |                 |                          |                   |
|--|-----------------|--------------------------|-------------------|
| <b>Enf./Case ID No.</b>                | 33706           | <b>No. of Violations</b> | 3                 |
| <b>Docket No.</b>                      | 2007-0893-MWD-E | <b>Order Type</b>        | 1660              |
| <b>Media Program(s)</b>                | Water Quality   | <b>Enf. Coordinator</b>  | J. Craig Fleming  |
| <b>Multi-Media</b>                     |                 | <b>EC's Team</b>         | EnforcementTeam 3 |
| <b>Admin. Penalty \$ Limit Minimum</b> | \$0             | <b>Maximum</b>           | \$10,000          |

## Penalty Calculation Section

### TOTAL BASE PENALTY (Sum of violation base penalties)

**Subtotal 1** 

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

**Compliance History**  **Subtotals 2, 3, & 7** 

**Notes** A 77% enhancement is recommended for having one agreed order without denial, ten NOV's for similar violations, and one NOV for non-similar violations.

**Culpability**   **Subtotal 4** 

**Notes** The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply**  **Subtotal 5** 

|               | Before NOV | NOV to EDPRP/Settlement Offer |
|---------------|------------|-------------------------------|
| Extraordinary |            |                               |
| Ordinary      |            |                               |
| N/A           | X          | (mark with x)                 |

**Notes** The Respondent does not meet the good faith criteria.

**Total EB Amounts**  **0% Enhancement\*** **Subtotal 6**   
**Approx. Cost of Compliance**  **\*Capped at the Total EB \$ Amount**

### SUM OF SUBTOTALS 1-7

**Final Subtotal** 

### OTHER FACTORS AS JUSTICE MAY REQUIRE

**Adjustment** 

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

**Notes**

**Final Penalty Amount** 

### STATUTORY LIMIT ADJUSTMENT

**Final Assessed Penalty** 

### DEFERRAL

Reduction

**Adjustment** 

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

**Notes**

Deferral offered for expedited settlement.

### PAYABLE PENALTY

Screening Date 6-Jun-2007

Docket No. 2007-0893-MWD-E

PCW

Respondent Trinity @ Windfern LLC

Policy Revision 2 (September 2002)

Case ID No. 33706

PCW Revision May 25, 2007

Reg. Ent. Reference No. RN102916178

Media [Statute] Water Quality

Enf. Coordinator J. Craig Fleming

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

| Component                     | Number of...   | Enter Number Here | Adjust. |
|-------------------------------|--|-------------------|---------|
| NOVs                          | Written NOVs with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )   | 10                | 50%     |
|                               | Other written NOVs   | 1                 | 2%      |
| Orders                        | Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )  | 0                 | 0%      |
|                               | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 1                 | 25%     |
| Judgments and Consent Decrees | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )                              | 0                 | 0%      |
|                               | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government  | 0                 | 0%      |
| Convictions                   | Any criminal convictions of this state or the federal government ( <i>number of counts</i> )   | 0                 | 0%      |
| Emissions                     | Chronic excessive emissions events ( <i>number of events</i> )   | 0                 | 0%      |
| Audits                        | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )     | 0                 | 0%      |
|                               | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )  | 0                 | 0%      |
| Please Enter Yes or No        |  |                   |         |
| Other                         | Environmental management systems in place for one year or more   | No                | 0%      |
|                               | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program  | No                | 0%      |
|                               | Participation in a voluntary pollution reduction program   | No                | 0%      |
|                               | Early compliance with, or offer of a product that meets future state or federal government environmental requirements  | No                | 0%      |

Adjustment Percentage (Subtotal 2) 77%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance History Notes

A 77% enhancement is recommended for having one agreed order without denial, ten NOVs for similar violations, and one NOV for non-similar violations.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 77%

|   |   |                            |                      |                      |          |                      |                      |                            |                      |                      |                      |                      |                      |           |                      |                      |   |
|---|---|----------------------------|----------------------|----------------------|----------|----------------------|----------------------|----------------------------|----------------------|----------------------|----------------------|----------------------|----------------------|-----------|----------------------|----------------------|---|
| <b>Screening Date</b> 6-Jun-2007<br><b>Respondent</b> Trinity @ Windfern LLC<br><b>Case ID No.</b> 33706<br><b>Reg. Ent. Reference No.</b> RN102916178<br><b>Media [Statute]</b> Water Quality<br><b>Enf. Coordinator</b> J. Craig Fleming<br><b>Violation Number</b> <input type="text" value="1"/>  | <b>Docket No.</b> 2007-0893-MWD-E<br><b>PCW</b><br><i>Policy Revision 2 (September 2002)</i><br><i>PCW Revision May 25, 2007</i>  |                            |                      |                      |          |                      |                      |                            |                      |                      |                      |                      |                      |           |                      |                      |   |
| <b>Rule Cite(s)</b> 30 Tex. Admin. Code § 319.5(b), and TPDES Permit No. WQ0013509001, Effluent Limitations and Monitoring Requirements, No. 1  |   |                            |                      |                      |          |                      |                      |                            |                      |                      |                      |                      |                      |           |                      |                      |   |
| <b>Violation Description</b> Failed to collect effluent samples at the frequency specified in the permit. Specifically, a review of records at the time of the investigation revealed 7 weekly sampling events in the months of March, April, May, and June, 2006 were not taken.   |   |                            |                      |                      |          |                      |                      |                            |                      |                      |                      |                      |                      |           |                      |                      |   |
| <b>Base Penalty</b> <input type="text" value="\$10,000"/>   |   |                            |                      |                      |          |                      |                      |                            |                      |                      |                      |                      |                      |           |                      |                      |   |
| <b>&gt;&gt; Environmental, Property and Human Health Matrix</b>   |   |                            |                      |                      |          |                      |                      |                            |                      |                      |                      |                      |                      |           |                      |                      |   |
| OR  | <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td></td> <td style="text-align: center;"><b>Release</b></td> <td style="text-align: center;"><b>Harm</b></td> <td></td> </tr> <tr> <td></td> <td></td> <td style="text-align: center;">Major    Moderate    Minor</td> <td></td> </tr> <tr> <td style="text-align: center;">Actual</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> <tr> <td style="text-align: center;">Potential</td> <td><input type="text"/></td> <td><input type="text"/></td> <td style="text-align: center;">x</td> </tr> </table> <div style="display: flex; justify-content: flex-end; margin-top: 5px;"> <b>Percent</b> <input type="text" value="5%"/> </div> |                            | <b>Release</b>       | <b>Harm</b>          |          |                      |                      | Major    Moderate    Minor |                      | Actual               | <input type="text"/> | <input type="text"/> | <input type="text"/> | Potential | <input type="text"/> | <input type="text"/> | x |
|   | <b>Release</b>  | <b>Harm</b>                |                      |                      |          |                      |                      |                            |                      |                      |                      |                      |                      |           |                      |                      |   |
|   |   | Major    Moderate    Minor |                      |                      |          |                      |                      |                            |                      |                      |                      |                      |                      |           |                      |                      |   |
| Actual  | <input type="text"/>  | <input type="text"/>       | <input type="text"/> |                      |          |                      |                      |                            |                      |                      |                      |                      |                      |           |                      |                      |   |
| Potential   | <input type="text"/>  | <input type="text"/>       | x                    |                      |          |                      |                      |                            |                      |                      |                      |                      |                      |           |                      |                      |   |
| <b>&gt;&gt; Programmatic Matrix</b>   |   |                            |                      |                      |          |                      |                      |                            |                      |                      |                      |                      |                      |           |                      |                      |   |
|   | <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td></td> <td style="text-align: center;">Falsification</td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> </tr> <tr> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> </table> <div style="display: flex; justify-content: flex-end; margin-top: 5px;"> <b>Percent</b> <input type="text" value="0%"/> </div>   |                            | Falsification        | Major                | Moderate | Minor                | <input type="text"/> | <input type="text"/>       | <input type="text"/> | <input type="text"/> | <input type="text"/> |                      |                      |           |                      |                      |   |
|   | Falsification   | Major                      | Moderate             | Minor                |          |                      |                      |                            |                      |                      |                      |                      |                      |           |                      |                      |   |
| <input type="text"/>  | <input type="text"/>  | <input type="text"/>       | <input type="text"/> | <input type="text"/> |          |                      |                      |                            |                      |                      |                      |                      |                      |           |                      |                      |   |
| Matrix Notes  | Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.  |                            |                      |                      |          |                      |                      |                            |                      |                      |                      |                      |                      |           |                      |                      |   |
| <b>Adjustment</b> <input type="text" value="\$9,500"/>  |   |                            |                      |                      |          |                      |                      |                            |                      |                      |                      |                      |                      |           |                      |                      |   |
| <input type="text" value="\$500"/>  |   |                            |                      |                      |          |                      |                      |                            |                      |                      |                      |                      |                      |           |                      |                      |   |
| <b>Violation Events</b>   |   |                            |                      |                      |          |                      |                      |                            |                      |                      |                      |                      |                      |           |                      |                      |   |
| <div style="display: flex; justify-content: space-between;"> <div> <b>Number of Violation Events</b> <input type="text" value="7"/> </div> <div> <input type="text" value="119"/> <b>Number of violation days</b> </div> </div> <div style="margin-top: 10px;"> <table border="1" style="border-collapse: collapse;"> <tr> <td rowspan="6" style="width: 50px; text-align: center; font-size: small;">mark only one with an x</td> <td style="text-align: center;">daily</td> <td><input type="text"/></td> </tr> <tr> <td style="text-align: center;">monthly</td> <td><input type="text"/></td> </tr> <tr> <td style="text-align: center;">quarterly</td> <td><input type="text"/></td> </tr> <tr> <td style="text-align: center;">semiannual</td> <td><input type="text"/></td> </tr> <tr> <td style="text-align: center;">annual</td> <td><input type="text"/></td> </tr> <tr> <td style="text-align: center;">single event</td> <td style="text-align: center;">x</td> </tr> </table> </div> <div style="text-align: right; margin-top: 10px;"> <b>Violation Base Penalty</b> <input type="text" value="\$3,500"/> </div> <div style="border: 1px solid black; padding: 10px; margin-top: 10px; text-align: center;">         Seven events (one for each missed weekly sampling event) are recommended.       </div> |   | mark only one with an x    | daily                | <input type="text"/> | monthly  | <input type="text"/> | quarterly            | <input type="text"/>       | semiannual           | <input type="text"/> | annual               | <input type="text"/> | single event         | x         |                      |                      |   |
| mark only one with an x   | daily   |                            | <input type="text"/> |                      |          |                      |                      |                            |                      |                      |                      |                      |                      |           |                      |                      |   |
|   | monthly   |                            | <input type="text"/> |                      |          |                      |                      |                            |                      |                      |                      |                      |                      |           |                      |                      |   |
|   | quarterly   |                            | <input type="text"/> |                      |          |                      |                      |                            |                      |                      |                      |                      |                      |           |                      |                      |   |
|   | semiannual  |                            | <input type="text"/> |                      |          |                      |                      |                            |                      |                      |                      |                      |                      |           |                      |                      |   |
|   | annual  |                            | <input type="text"/> |                      |          |                      |                      |                            |                      |                      |                      |                      |                      |           |                      |                      |   |
|   | single event  | x                          |                      |                      |          |                      |                      |                            |                      |                      |                      |                      |                      |           |                      |                      |   |
| <b>Economic Benefit (EB) for this violation</b>   |   |                            |                      |                      |          |                      |                      |                            |                      |                      |                      |                      |                      |           |                      |                      |   |
| <div style="display: flex; justify-content: space-between;"> <div> <b>Estimated EB Amount</b> <input type="text" value="\$1,743"/> </div> <div> <b>Statutory Limit Test</b> </div> </div> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div> <b>Violation Final Penalty Total</b> <input type="text" value="\$6,195"/> </div> <div> <b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$6,195"/> </div> </div>   |   |                            |                      |                      |          |                      |                      |                            |                      |                      |                      |                      |                      |           |                      |                      |   |

**Economic Benefit Worksheet****Respondent** Trinity @ Windfern LLC**Case ID No.** 33706**Reg. Ent. Reference No.** RN102916178**Media** Water Quality**Violation No.** 1

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0              | 15                    |

| Item Description | Item Cost<br>No commas or \$ | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|------------------|------------------------------|---------------|------------|-----|----------------|---------------|-----------|
|------------------|------------------------------|---------------|------------|-----|----------------|---------------|-----------|

**Delayed Costs**

|                          |  |  |  |     |     |     |     |
|--------------------------|--|--|--|-----|-----|-----|-----|
| Equipment                |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Buildings                |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed)        |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Engineering/construction |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Land                     |  |  |  | 0.0 | \$0 | n/a | \$0 |
| Record Keeping System    |  |  |  | 0.0 | \$0 | n/a | \$0 |
| Training/Sampling        |  |  |  | 0.0 | \$0 | n/a | \$0 |
| Remediation/Disposal     |  |  |  | 0.0 | \$0 | n/a | \$0 |
| Permit Costs             |  |  |  | 0.0 | \$0 | n/a | \$0 |
| Other (as needed)        |  |  |  | 0.0 | \$0 | n/a | \$0 |

Notes for DELAYED costs

NA

**Avoided Costs**

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

|                               |       |            |             |     |      |         |         |
|-------------------------------|-------|------------|-------------|-----|------|---------|---------|
| Disposal                      |       |            |             | 0.0 | \$0  | \$0     | \$0     |
| Personnel                     |       |            |             | 0.0 | \$0  | \$0     | \$0     |
| Inspection/Reporting/Sampling | \$850 | 1-Jan-2006 | 15-Dec-2007 | 2.0 | \$83 | \$1,660 | \$1,743 |
| Supplies/equipment            |       |            |             | 0.0 | \$0  | \$0     | \$0     |
| Financial Assurance [2]       |       |            |             | 0.0 | \$0  | \$0     | \$0     |
| ONE-TIME avoided costs [3]    |       |            |             | 0.0 | \$0  | \$0     | \$0     |
| Other (as needed)             |       |            |             | 0.0 | \$0  | \$0     | \$0     |

Notes for AVOIDED costs

Estimated cost (\$50 per sampling event) for not collecting and analyzing routine weekly samples. The Date Required is the first day of the scheduled sampling. The Final Date is the expected date of compliance.

Approx. Cost of Compliance

\$850

TOTAL

\$1,743



Screening Date 6-Jun-2007

Docket No. 2007-0893-MWD-E

PCW

Respondent Trinity @ Windfern LLC

Policy Revision 2 (September 2002)

Case ID No. 33706

PCW Revision May 25, 2007

Reg. Ent. Reference No. RN102916178

Media [Statute] Water Quality

Enf. Coordinator J. Craig Fleming

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 319.7(c)

**Violation Description** Failed to make available all discharge monitoring records for review. Specifically, no records were available from the year 2005 for review at the investigation: discharge monitoring reports (DMRs) for 2005, laboratory reports for 2005, annual sludge reports for 2005-2006, and the 2006 toxicity characteristic leaching procedure (TCLP) test results.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

| Release   | Harm  |          |       |
|-----------|-------|----------|-------|
|           | Major | Moderate | Minor |
| Actual    |       |          |       |
| Potential |       |          |       |

Percent 0%

## &gt;&gt; Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---------------|-------|----------|-------|
|               | x     |          |       |

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

## Violation Events

Number of Violation Events 1

71 Number of violation days

|                            |              |   |
|----------------------------|--------------|---|
| mark only one<br>with an x | daily        |   |
|                            | monthly      |   |
|                            | quarterly    |   |
|                            | semiannual   |   |
|                            | annual       |   |
|                            | single event | x |

Violation Base Penalty \$1,000

One single event is recommended.

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$150

Violation Final Penalty Total \$1,770

This violation Final Assessed Penalty (adjusted for limits) \$1,770

**Economic Benefit Worksheet****Respondent** Trinity @ Windfern LLC**Case ID No.** 33706**Reg. Ent. Reference No.** RN102916178**Media** Water Quality**Violation No.** 2

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0              | 15                    |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
| No commas or \$  |           |               |            |     |                |               |           |

**Delayed Costs**

|                          |         |            |            |     |       |     |       |
|--------------------------|---------|------------|------------|-----|-------|-----|-------|
| Equipment                |         |            |            | 0.0 | \$0   | \$0 | \$0   |
| Buildings                |         |            |            | 0.0 | \$0   | \$0 | \$0   |
| Other (as needed)        |         |            |            | 0.0 | \$0   | \$0 | \$0   |
| Engineering/construction |         |            |            | 0.0 | \$0   | \$0 | \$0   |
| Land                     |         |            |            | 0.0 | \$0   | n/a | \$0   |
| Record Keeping System    | \$1,000 | 1-Jan-2005 | 1-Jan-2008 | 3.0 | \$150 | n/a | \$150 |
| Training/Sampling        |         |            |            | 0.0 | \$0   | n/a | \$0   |
| Remediation/Disposal     |         |            |            | 0.0 | \$0   | n/a | \$0   |
| Permit Costs             |         |            |            | 0.0 | \$0   | n/a | \$0   |
| Other (as needed)        |         |            |            | 0.0 | \$0   | n/a | \$0   |

**Notes for DELAYED costs**

Estimated cost to establish a system whereby the reports are documented, retrievable, and timely submitted. The Date Required was the first day of the reporting time period. The Final Date is the expected date of compliance.

**Avoided Costs****ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

|                               |  |  |  |     |     |     |     |
|-------------------------------|--|--|--|-----|-----|-----|-----|
| Disposal                      |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Personnel                     |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Supplies/equipment            |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Financial Assurance [2]       |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3]    |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed)             |  |  |  | 0.0 | \$0 | \$0 | \$0 |

**Notes for AVOIDED costs**

NA

**Approx. Cost of Compliance**

\$1,000

**TOTAL**

\$150

Screening Date 6-Jun-2007

Docket No. 2007-0893-MWD-E

PCW

Respondent Trinity @ Windfern LLC

Policy Revision 2 (September 2002)

Case ID No. 33706

PCW Revision May 25, 2007

Reg. Ent. Reference No. RN102916178

Media [Statute] Water Quality

Enf. Coordinator J. Craig Fleming

Violation Number 3

Rule Cite(s) Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), (4), and (5), and TPDES Permit No. WQ0013509001, Permit Conditions 2.d.

## Violation Description

Failed to operate and maintain the Facility to prevent the discharge and accumulations of sludge in the receiving stream. Specifically, sludge was noted in the roadside outfall ditch for approximately 200 feet downstream of the outfall. Samples taken from the outfall ditch contained a carbonaceous biochemical oxygen demand concentration of 159 mg/L, a total suspended solids concentration of 7,120 mg/L, a volatile suspended solids concentration of 3,030 mg/L, and an ammonia-nitrogen concentration of 4.8 mg/L.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

| Release   | Harm  |          |       |
|-----------|-------|----------|-------|
|           | Major | Moderate | Minor |
| Actual    |       | x        |       |
| Potential |       |          |       |

Percent 25%

## &gt;&gt; Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---------------|-------|----------|-------|
|               |       |          |       |

Percent 0%

Matrix Notes

Human health or the environment has been exposed to significant amounts of pollutants as a result of the violation.

Adjustment \$7,500

\$2,500

## Violation Events

Number of Violation Events 1

71 Number of violation days

|                            |              |   |
|----------------------------|--------------|---|
| mark only one<br>with an x | daily        |   |
|                            | monthly      |   |
|                            | quarterly    | x |
|                            | semiannual   |   |
|                            | annual       |   |
|                            | single event |   |

Violation Base Penalty \$2,500

One quarterly event is recommended from the date of the investigation conducted on March 27, 2007, to the date of screening on June 6, 2007.

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$58

Violation Final Penalty Total \$4,425

This violation Final Assessed Penalty (adjusted for limits) \$4,425

**Economic Benefit Worksheet****Respondent** Trinity @ Windfern LLC**Case ID No.** 33706**Reg. Ent. Reference No.** RN102916178**Media** Water Quality**Violation No.** 3

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0              | 15                    |

| Item Description | Item Cost<br>No commas or \$ | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|------------------|------------------------------|---------------|------------|-----|----------------|---------------|-----------|
|------------------|------------------------------|---------------|------------|-----|----------------|---------------|-----------|

**Delayed Costs**

|                          |         |             |            |     |      |     |      |
|--------------------------|---------|-------------|------------|-----|------|-----|------|
| Equipment                |         |             |            | 0.0 | \$0  | \$0 | \$0  |
| Buildings                |         |             |            | 0.0 | \$0  | \$0 | \$0  |
| Other (as needed)        |         |             |            | 0.0 | \$0  | \$0 | \$0  |
| Engineering/construction |         |             |            | 0.0 | \$0  | \$0 | \$0  |
| Land                     |         |             |            | 0.0 | \$0  | n/a | \$0  |
| Record Keeping System    |         |             |            | 0.0 | \$0  | n/a | \$0  |
| Training/Sampling        |         |             |            | 0.0 | \$0  | n/a | \$0  |
| Remediation/Disposal     |         |             |            | 0.0 | \$0  | n/a | \$0  |
| Permit Costs             |         |             |            | 0.0 | \$0  | n/a | \$0  |
| Other (as needed)        | \$1,500 | 27-Mar-2007 | 1-Jan-2008 | 0.8 | \$58 | n/a | \$58 |

**Notes for DELAYED costs**

Approximate cost for the corrective actions to clean the ditch and to prevent the recurrence of any discharges of solids to the receiving stream. The Date Required was the day the violation was first observed. The Final Date is the expected date of compliance.

**Avoided Costs****ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

|                               |  |  |  |     |     |     |     |
|-------------------------------|--|--|--|-----|-----|-----|-----|
| Disposal                      |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Personnel                     |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Supplies/equipment            |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Financial Assurance [2]       |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3]    |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed)             |  |  |  | 0.0 | \$0 | \$0 | \$0 |

**Notes for AVOIDED costs**

NA

**Approx. Cost of Compliance**

\$1,500

**TOTAL**

\$58

# Compliance History

Customer/Respondent/Owner-Operator: CN601719776 Trinity @ Windfern LLC Classification: AVERAGE Rating: 12.15  
Regulated Entity: RN102916178 WINDFERN MHP Classification: AVERAGE Site Rating: 12.15  
ID Number(s): WASTEWATER PERMIT WQ0013509001  
WASTEWATER PERMIT TPDES0092746  
WASTEWATER PERMIT TX0092746  
WASTEWATER LICENSING LICENSE WQ0013509001  
Location: 9401 Windfern Road approximately 300 feet south of Rating Date: September 01 06 Repeat Violator:  
Zaka Road and approximately 3 miles north of the NO  
intersection of Windfern Road and U.S. Highway 290  
in Harris County, Texas  
TCEQ Region: REGION 12 - HOUSTON  
Date Compliance History Prepared: June 01, 2007  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: June 01, 2002 to June 01, 2007  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: J. Craig Fleming Phone: (512) 239-5806

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? Yes
3. If Yes, who is the current owner? Trinity @ Windfern LLC
4. If Yes, who was/were the prior owner(s)? The Windfern Corporation
5. When did the change(s) in ownership occur? 19-Jun-03

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

Effective Date: 11/22/2002 ADMINORDER 2001-1212-MWD-E  
Classification: Major  
Citation: TWC Chapter 26 26.121  
Rqmt Prov: 2 PERMIT  
Description: Failed to properly operate and maintain the Facility, which resulted in an accumulation of solids, downstream of the discharge point.  
Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125[G]  
Rqmt Prov: OR item 1 PERMIT  
Description: Failed to operate the Facility according to permit requirements in which the in-ground 0.0135 MGD treatment plant was severely corroded and the aeration basin and digester were not level.  
Classification: Major  
Citation: 30 TAC Chapter 317 317.7(i)  
Description: Failed to install a backflow preventer and an atmospheric breaker on the potable water line coming into the Facility to protect the potable water being supplied to the Facility.  
Classification: Moderate  
Citation: 30 TAC Chapter 317 317.3(b)(1)  
Description: Failed to provide a back-up pump for the lift station.  
Classification: Moderate  
Citation: 30 TAC Chapter 317 317.2(d)(5)(D)  
Rqmt Prov: ELMR, item 7 PERMIT  
Description: Failed to maintain permit effluent limits and to provide adequate treatment so as to ensure that the effluent meets the permit standards.

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

|    |            |          |
|----|------------|----------|
| 1  | 11/13/2002 | (15925)  |
| 2  | 01/17/2003 | (20826)  |
| 3  | 01/29/2003 | (214654) |
| 4  | 03/21/2003 | (214641) |
| 5  | 03/21/2003 | (214640) |
| 6  | 03/27/2003 | (247457) |
| 7  | 04/30/2003 | (319175) |
| 8  | 05/29/2003 | (319178) |
| 9  | 06/23/2003 | (319180) |
| 10 | 08/29/2003 | (319183) |
| 11 | 09/25/2003 | (319185) |
| 12 | 10/23/2003 | (319186) |
| 13 | 11/26/2003 | (319187) |
| 14 | 01/08/2004 | (319188) |
| 15 | 01/22/2004 | (319189) |
| 16 | 02/27/2004 | (319172) |
| 17 | 03/22/2004 | (319174) |
| 18 | 04/22/2004 | (319176) |
| 19 | 05/27/2004 | (362231) |
| 20 | 06/23/2004 | (362232) |
| 21 | 07/28/2004 | (362233) |
| 22 | 08/25/2004 | (362234) |
| 23 | 09/22/2004 | (362235) |
| 24 | 10/29/2004 | (387591) |
| 25 | 11/29/2004 | (387592) |
| 26 | 12/07/2004 | (339961) |
| 27 | 12/30/2004 | (387593) |
| 28 | 01/26/2005 | (387594) |
| 29 | 03/02/2005 | (387589) |
| 30 | 03/28/2005 | (387590) |
| 31 | 04/27/2005 | (425308) |
| 32 | 05/09/2005 | (379952) |
| 33 | 06/01/2005 | (425309) |
| 34 | 06/21/2005 | (425310) |
| 35 | 07/21/2005 | (425311) |
| 36 | 08/26/2005 | (445881) |
| 37 | 09/28/2005 | (445882) |
| 38 | 10/26/2005 | (477869) |
| 39 | 11/23/2005 | (477870) |
| 40 | 12/29/2005 | (477871) |
| 41 | 01/26/2006 | (477872) |
| 42 | 04/10/2006 | (504296) |
| 43 | 04/10/2006 | (504297) |
| 44 | 07/05/2006 | (466588) |
| 45 | 07/17/2006 | (486415) |
| 46 | 07/24/2006 | (488013) |
| 47 | 05/21/2007 | (555024) |

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 12/31/2002 (214654)

Self Report? YES

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 01/31/2003 (214640)

Self Report? YES

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)[G]

|              |  |                          |
|--------------|--|--------------------------|
| Description: | Failure to meet the limit for one or more permit parameter |                          |
| Date:        | 02/01/2003 (214641)  |                          |
| Self Report? | YES  | Classification: Moderate |
| Citation:    | 30 TAC Chapter 305, SubChapter F 305.125(1)                |                          |
|              | TWC Chapter 26 26.121(a)[G]                                |                          |
| Description: | Failure to meet the limit for one or more permit parameter |                          |
| Date:        | 03/27/2003 (247457)  |                          |
| Self Report? | NO   | Classification: Moderate |
| Citation:    | 30 TAC Chapter 305, SubChapter F 305.125(1)                |                          |
| Description: | NON-RPT VIOS FOR MONIT PER OR PIPE                         |                          |
| Self Report? | NO   | Classification: Moderate |
| Citation:    | 30 TAC Chapter 305, SubChapter F 305.125(1)                |                          |
| Description: | NON-RPT VIOS FOR MONIT PER OR PIPE                         |                          |
| Self Report? | NO   | Classification: Moderate |
| Citation:    | 30 TAC Chapter 305, SubChapter F 305.125(1)                |                          |
| Description: | NON-RPT VIOS FOR MONIT PER OR PIPE                         |                          |
| Self Report? | NO   | Classification: Moderate |
| Citation:    | 30 TAC Chapter 305, SubChapter F 305.125(1)                |                          |
| Description: | NON-RPT VIOS FOR MONIT PER OR PIPE                         |                          |
| Self Report? | NO   | Classification: Moderate |
| Citation:    | 30 TAC Chapter 305, SubChapter F 305.125(1)                |                          |
| Description: | NON-RPT VIOS FOR MONIT PER OR PIPE                         |                          |
| Self Report? | NO   | Classification: Moderate |
| Citation:    | 30 TAC Chapter 305, SubChapter F 305.125(1)                |                          |
| Description: | NON-RPT VIOS FOR MONIT PER OR PIPE                         |                          |
| Self Report? | NO   | Classification: Moderate |
| Citation:    | 30 TAC Chapter 305, SubChapter F 305.125(1)                |                          |
| Description: | NON-RPT VIOS FOR MONIT PER OR PIPE                         |                          |
| Self Report? | NO   | Classification: Moderate |
| Citation:    | 30 TAC Chapter 305, SubChapter F 305.125(1)                |                          |
| Description: | NON-RPT VIOS FOR MONIT PER OR PIPE                         |                          |
| Self Report? | NO   | Classification: Moderate |
| Citation:    | 30 TAC Chapter 305, SubChapter F 305.125(1)                |                          |
| Description: | NON-RPT VIOS FOR MONIT PER OR PIPE                         |                          |
| Self Report? | NO   | Classification: Moderate |
| Citation:    | 30 TAC Chapter 305, SubChapter F 305.125(1)                |                          |
| Description: | NON-RPT VIOS FOR MONIT PER OR PIPE                         |                          |
| Self Report? | NO   | Classification: Moderate |
| Citation:    | 30 TAC Chapter 305, SubChapter F 305.125(1)                |                          |
| Description: | NON-RPT VIOS FOR MONIT PER OR PIPE                         |                          |
| Self Report? | NO   | Classification: Moderate |
| Citation:    | 30 TAC Chapter 305, SubChapter F 305.125(1)                |                          |
| Description: | NON-RPT VIOS FOR MONIT PER OR PIPE                         |                          |
| Self Report? | NO   | Classification: Moderate |
| Citation:    | 30 TAC Chapter 305, SubChapter F 305.125(1)                |                          |
| Description: | NON-RPT VIOS FOR MONIT PER OR PIPE                         |                          |
| Self Report? | NO   | Classification: Moderate |
| Citation:    | 30 TAC Chapter 305, SubChapter F 305.125(1)                |                          |
| Description: | NON-RPT VIOS FOR MONIT PER OR PIPE                         |                          |
| Self Report? | NO   | Classification: Moderate |
| Citation:    | 30 TAC Chapter 305, SubChapter F 305.125(1)                |                          |
| Description: | NON-RPT VIOS FOR MONIT PER OR PIPE                         |                          |
| Self Report? | NO   | Classification: Moderate |
| Citation:    | 30 TAC Chapter 305, SubChapter F 305.125(1)                |                          |
| Description: | NON-RPT VIOS FOR MONIT PER OR PIPE                         |                          |
| Self Report? | NO   | Classification: Moderate |

|              |  |                          |
|--------------|--|--------------------------|
| Self Report? | NO   | Classification: Moderate |
| Citation:    | 30 TAC Chapter 305, SubChapter F 305.125(1)  |                          |
| Description: | NON-RPT VIOS FOR MONIT PER OR PIPE   |                          |
| Self Report? | NO   | Classification: Moderate |
| Citation:    | 30 TAC Chapter 305, SubChapter F 305.125(1)  |                          |
| Description: | NON-RPT VIOS FOR MONIT PER OR PIPE   |                          |
| Self Report? | NO   | Classification: Moderate |
| Citation:    | 30 TAC Chapter 305, SubChapter F 305.125(1)  |                          |
| Description: | NON-RPT VIOS FOR MONIT PER OR PIPE   |                          |
| Self Report? | NO   | Classification: Moderate |
| Citation:    | 30 TAC Chapter 305, SubChapter F 305.125(1)  |                          |
| Description: | NON-RPT VIOS FOR MONIT PER OR PIPE   |                          |
| Self Report? | NO   | Classification: Moderate |
| Citation:    | 30 TAC Chapter 305, SubChapter F 305.125(1)  |                          |
| Description: | NON-RPT VIOS FOR MONIT PER OR PIPE   |                          |
| Date:        | 03/31/2003 (319175)  |                          |
| Self Report? | YES  | Classification: Moderate |
| Citation:    | 30 TAC Chapter 305, SubChapter F 305.125(1)  |                          |
|              | TWC Chapter 26 26.121(a)[G]  |                          |
| Description: | Failure to meet the limit for one or more permit parameter   |                          |
| Date:        | 04/30/2003 (319178)  |                          |
| Self Report? | YES  | Classification: Moderate |
| Citation:    | 30 TAC Chapter 305, SubChapter F 305.125(1)  |                          |
|              | TWC Chapter 26 26.121(a)[G]  |                          |
| Description: | Failure to meet the limit for one or more permit parameter   |                          |
| Date:        | 05/31/2003 (319180)  |                          |
| Self Report? | YES  | Classification: Moderate |
| Citation:    | 30 TAC Chapter 305, SubChapter F 305.125(1)  |                          |
|              | TWC Chapter 26 26.121(a)[G]  |                          |
| Description: | Failure to meet the limit for one or more permit parameter   |                          |
| Date:        | 07/31/2003 (319183)  |                          |
| Self Report? | YES  | Classification: Moderate |
| Citation:    | 30 TAC Chapter 305, SubChapter F 305.125(1)  |                          |
|              | TWC Chapter 26 26.121(a)[G]  |                          |
| Description: | Failure to meet the limit for one or more permit parameter   |                          |
| Date:        | 03/31/2004 (319176)  |                          |
| Self Report? | YES  | Classification: Moderate |
| Citation:    | 30 TAC Chapter 305, SubChapter F 305.125(1)  |                          |
|              | TWC Chapter 26 26.121(a)[G]  |                          |
| Description: | Failure to meet the limit for one or more permit parameter   |                          |
| Date:        | 12/06/2004 (339961)  |                          |
| Self Report? | NO   | Classification: Minor    |
| Citation:    | 30 TAC Chapter 317 317.4(g)(4)(B)[G]   |                          |
| Description: | Failure to provide a back-up blower.   |                          |
| Self Report? | NO   | Classification: Moderate |
| Citation:    | 30 TAC Chapter 305, SubChapter F 305.125(1)  |                          |
| Description: | Failure to check the plant on a daily basis as required by Other Requirement #                                     |                          |
| Self Report? | NO   | Classification: Moderate |
| Citation:    | 30 TAC Chapter 305, SubChapter F 305.125(1)  |                          |
| Description: | Failure to prevent an accumulation of sludge in the receiving ditch.   |                          |
| Date:        | 07/27/2006 (485688)  |                          |
| Self Report? | NO   | Classification: Moderate |
| Citation:    | 30 TAC Chapter 305, SubChapter F 305.125(1)  |                          |
| Description: | Failure to prevent sludge from the wastewater treatment plant from being discharged into the ditch at the outfall. |                          |

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.



N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

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# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
TRINITY @ WINDFERN LLC  
RN102916178**

§ **BEFORE THE**  
§  
§ **TEXAS COMMISSION ON**  
§  
§ **ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2007-0893-MWD-E**

### **I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Trinity @ Windfern LLC ("Trinity") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and Trinity appear before the Commission and together stipulate that:

1. Trinity owns and operates a wastewater treatment plant associated with a mobile home park at 9401 Windfern Road approximately 300 feet south of Zaka Road and approximately 3 miles north of the intersection of Windfern Road and U.S. Highway 290 in Harris County, Texas (the "Facility").
2. Trinity has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
3. The Commission and Trinity agree that the Commission has jurisdiction to enter this Agreed Order, and that Trinity is subject to the Commission's jurisdiction.
4. Trinity received notice of the violations alleged in Section II ("Allegations") on or about May 26, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Trinity of any violation alleged in Section II ("Allegations"), nor of any statute or rule.



6. An administrative penalty in the amount of Twelve Thousand Three Hundred Ninety Dollars (\$12,390) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Trinity has paid Six Thousand Three Hundred Seventy-Two Dollars (\$6,372) of the administrative penalty and Two Thousand Four Hundred Seventy-Eight Dollars (\$2,478) is deferred contingent upon Trinity's timely and satisfactory compliance with all the terms of this Agreed Order. The remaining amount of Three Thousand Five Hundred Forty Dollars (\$3,540) of the administrative penalty shall be payable by March 1, 2007. If Trinity fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Trinity to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Trinity have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that Trinity has implemented the following corrective measures at the Facility:
  - a. The sludge in the chlorine basin was removed by pumping on April 5, 2007;
  - b. Trinity flushed the lift pump and backwashed the solids back into the clarifier by April 12, 2007; and
  - c. Trinity submitted the missing records for the year 2005 including but not limited to discharge monitoring reports ("DMRs"), laboratory reports, annual sludge reports for 2005-2006, and the 2006 toxicity characteristic leaching procedure ("TCLP") test results.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Trinity has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Facility, Trinity is alleged to have:

1. Failed to collect effluent samples at the frequency specified in the permit, in violation of 30 TEX. ADMIN. CODE § 319.5(b), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013509001, Effluent Limitations and Monitoring Requirements No. 1, as documented during an investigation conducted on March 27, 2007. Specifically, a review of records at the



time of the investigation revealed 7 weekly sampling events in the months of March, April, May, and June, 2006 were not taken.

2. Failed to make available all discharge monitoring records for review, in violation of 30 TEX. ADMIN. CODE § 319.7(c), as documented during an investigation conducted on March 27, 2007. Specifically, the following records were not available for review at the investigation: DMRs for 2005, laboratory reports for 2005, annual sludge reports for 2005-2006, and the 2006 TCLP test results.
3. Failed to operate and maintain the Facility to prevent the discharge and accumulations of sludge in the receiving stream, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), (4), and (5), and TPDES Permit No. WQ0013509001, Permit Conditions 2.d., as documented during an investigation conducted on March 27, 2007. Specifically, sludge was noted in the roadside outfall ditch for approximately 200 feet downstream of the outfall. Samples taken from the outfall ditch contained a carbonaceous biochemical oxygen demand concentration of 159 milligrams per liter ("mg/L"), a total suspended solids concentration of 7,120 mg/L, a volatile suspended solids concentration of 3,030 mg/L, and an ammonia-nitrogen concentration of 4.8 mg/L.

### III. DENIALS

Trinity generally denies each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Trinity pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Trinity's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Trinity @ Windfern LLC, Docket No. 2007-0893-MWD-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. It is further ordered that Trinity shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order,
    - i. Implement a procedure whereby the effluent samples are being collected at the required frequency, as required by 30 TEX. ADMIN. CODE § 319.5; and

Figure 1. The effect of the concentration of the  $\text{H}_2\text{O}_2$  solution on the amount of the released  $\text{H}_2\text{O}_2$  from the  $\text{H}_2\text{O}_2$ -loaded hydrogel. The amount of the released  $\text{H}_2\text{O}_2$  was measured by the amount of the released  $\text{I}^-$  from the  $\text{I}^-$ -loaded hydrogel. The amount of the released  $\text{I}^-$  was measured by the amount of the released  $\text{I}^-$  from the  $\text{I}^-$ -loaded hydrogel. The amount of the released  $\text{I}^-$  was measured by the amount of the released  $\text{I}^-$  from the  $\text{I}^-$ -loaded hydrogel.



- ii. Implement a procedure whereby the appropriate records are appropriately maintained, as required by 30 TEX. ADMIN. CODE § 319.7;
- b. Within 45 days after the effective date of this Agreed Order;
  - i. Submit documentation of the corrective actions taken to clean the receiving ditch; and
  - ii. Submit documentation on procedures taken to prevent the recurrence of any discharges of solids to the receiving ditch, as required by TEX. WATER CODE § 26.121.
- c. Within 60 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No(s). 2.a. and 2.b. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 169  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Water Section Manager  
Houston Regional Office  
Texas Commission on Environmental Quality  
5425 Polk Avenue, Suite H  
Houston, Texas 77023-1486

- 3. The provisions of this Agreed Order shall apply to and be binding upon Trinity. Trinity is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
- 4. If Trinity fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Trinity's failure to comply is not a violation of this Agreed Order. Trinity shall have



the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Trinity shall notify the Executive Director within seven days after Trinity becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

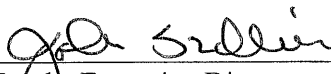
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Trinity shall be made in writing to the Executive Director. Extensions are not effective until Trinity receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against Trinity in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Trinity, or three days after the date on which the Commission mails notice of the Order to Trinity, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.



## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
\_\_\_\_\_  
For the Executive Director

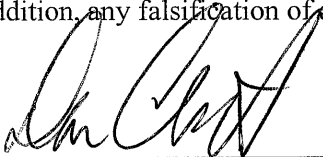
3/26/2008  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

  
\_\_\_\_\_  
Signature

2/20/08  
Date

DON CLEMENTS  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
Trinity @ Windfern LLC

owner  
\_\_\_\_\_  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

